

**MAY 18 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

FLOYD WILLIAMS, III,

Plaintiff - Appellant,

v.

SILVIA GARCIA, Warden; et al.,

Defendants - Appellees.

No. 05-55355

D.C. No. CV-03-01001-LAB

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Larry A. Burns, District Judge, Presiding

Submitted May 15, 2006\*\*

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

California state prisoner Floyd Williams, III, appeals pro se from the district court's summary judgment in favor of prison officials in his 42 U.S.C. § 1983

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\* The disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

action alleging that he was denied outdoor exercise in violation of the Eighth Amendment. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Beene v. Terhune*, 380 F.3d 1149, 1150 (9th Cir. 2004), and we affirm.

A temporary denial of outdoor exercise during an emergency lockdown period does not rise to the level of an Eighth Amendment violation. *See Hayward v. Procunier*, 629 F.2d 599, 603 (9th Cir. 1980) (deprivation of outdoor exercise and five month lockdown in response to genuine emergency did not violate the Eighth Amendment). The defendants' evidence shows that several attempts to reinstate normal programming and yard privileges in facility B were met with continuing violence between African-American and White inmates. Williams does not raise a genuine issue of material fact as to whether defendants acted with deliberate indifference in denying him outdoor exercise during this time of racial unrest at Calipatria State Prison. Accordingly, the district court properly granted summary judgment to defendants. *See id.*

**AFFIRMED.**